

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JANE LUIS SOLIS,

Plaintiff,

-against-

HOGSHEAD TAVERN AND TARA
WHOLLEY,

Defendants.

21-CV-619 (BCM)

ORDER

USDC SDNY
DOCUMENT
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DATE FILED: 7/6/21

BARBARA MOSES, United States Magistrate Judge.

The parties' stipulation (Dkt. No. 24), submitted pursuant to Fed. R. Civ. P. 41(a)(1)(ii), would dismiss plaintiff's Fair Labor Standards Act (FLSA) claims with prejudice. However, under *Cheeks v. Freeport Pancake House, Inc.*, 796 F.3d 199, 200 (2d Cir. 2015), and its progeny, "parties cannot settle their FLSA claims through a private stipulated dismissal with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii)" without the approval of either the Department of Labor or the District Court, which in turn requires the parties to show, and the Court to conclude, that the parties' agreement is "fair and reasonable" to the plaintiff. *Id.* at 201, 204.

Consequently, no later than **July 13, 2021**, the parties shall either (a) file a stipulation of dismissal specifying that the FLSA claims are to be dismissed *without* prejudice, or (b) file a joint letter explaining why the dismissal of those claims with prejudice is fair and reasonable to the plaintiff. If there is any agreement between the parties other than the stipulation itself, that agreement shall be attached (or, if oral, described).

Dated: New York, New York
July 6, 2021

SO ORDERED.



BARBARA MOSES
United States Magistrate Judge